



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

US EPA RECORDS CENTER REGION 5



471443

MAY 3 1992

REPLY TO THE ATTENTION OF:

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CS-3T

Eagle-Picher Industries, Inc.
Paul D. Harper
Director of Environmental Affairs
508 Walnut Street
Cincinnati, OH 45202

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for the Albion-Sheridan Township Landfill Site, Albion, MI.

Dear Sir or Madam:

The United States Environmental Protection Agency ("U.S. EPA") is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants at the Albion-Sheridan Township Landfill Site ("the Site") in Albion, Michigan. This investigation requires inquiry into the generation, storage, treatment and disposal of such substances that have been, or threaten to be, released at the Site. The U.S. EPA is also investigating the ability of persons connected with the Site to pay for, or perform, a clean-up of the Site.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9604(e), as amended by the Superfund Amendments and Reauthorization Act (SARA), Pub. L. 99-499, you are hereby requested to respond to the Information Requests enclosed herein. Compliance with these Information Requests is mandatory. Failure to respond fully and truthfully to each and every Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in an enforcement action by the U.S. EPA pursuant to Section 104(e)(5) of CERCLA which, as amended, authorizes the U.S. EPA to seek penalties from a federal court of up to twenty five thousand dollars (\$25,000) for each day of continued noncompliance. "Noncompliance" is considered by the U.S. EPA to be not only failure to respond to the Requests but also failure to respond completely and truthfully to each Request. Please be further advised that to provide false, fictitious or fraudulent statements or representations may subject you to criminal penalties of up to ten thousand dollars (\$10,000), or up to five (5) years of imprisonment, or both under 18 U.S.C. § 1001. The

U.S. EPA has the authority to use the information requested herein in an administrative, civil or criminal action.

These Information Requests are directed to your company, its officers, directors and employees, and its subsidiaries, divisions, facilities and their officers, directors and employees. The relevant time period for this request is 1980 to the present.

These Information Requests are not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to these Information Requests should be mailed to the following:

Kurt Lindland
Assistant Regional Counsel
U.S. Environmental Protection Agency
77 W. Jackson
Mail Code CS-3T
Chicago, IL 60604

If you have any legal questions, please direct them to Mr. Kurt Lindland of the Office of Regional Counsel at (312) 886-7152. If you have any technical questions, please direct them to Mary Beth Novy, Remedial Project Manager, at (312) 353-7556.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, U.S. EPA strongly encourages you to give this matter your immediate attention and to respond to these Information Requests within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,

ORIGINAL SIGNED
by Lynn Peterson

Lynn Peterson, Chief
Solid Waste and Emergency Response Branch

Attachment

FIRST SET OF INFORMATION REQUESTS
EAGLE-PICHER INDUSTRIES, INC.

Instructions

1. A response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information is not known or not available to the Respondent as of the date of submission, and if the response should later become known or available to it, Respondent must supplement its response to the U.S. EPA. Moreover, should the Respondent find, at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, Respondent must notify the U.S. EPA thereof as soon as possible.
5. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it pertains.
6. You must respond to the Information Requests on the basis of all information in your possession, custody or control, or available information in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether it is based on personal knowledge, and regardless of the source.
7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, disposal or the handling practices of Eagle-Picher Industries or its Union Steel Products division from the commencement of operations until the date its operations ceased. To the extent that any information you provide relating to these Requests is based on your personal knowledge of your employees, agents or other representatives, this information shall be in the form of a notarized affidavit.

8. If any documents herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.

9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent, and only by means, of the procedures set forth in 40 C.F.R. Part 2, Subpart B [see 41 Fed. Reg. 36902 et seq. (September 1, 1976); 43 Fed. Reg. 51654 et seq. (December 18, 1985)]. If no such claim accompanies the information when it is received by the U.S. EPA, it may be made available to the public without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

Definitions

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean Eagle-Picher Industries, Inc., and when applicable, its Union Steel Products division, the officers, managers, employees, contractors, trustees, predecessors, successors, assigns, subsidiaries and/or divisions and agents of both entities.

2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.

3. "The Site" shall mean and include the property on or about the Albion-Sheridan Township Landfill in Albion, Michigan. The Albion-Sheridan Township Landfill is located approximately one mile east of Albion, Michigan between Michigan Avenue (also known as U.S. Highway 99 or old U.S. Highway 12) and East Erie Road. The area is also defined as Lot 27 and Lot 28 of the Supervisor's Plat.

4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, including mixtures of hazardous substances with other substances including petroleum products.
5. The term "pollutant" or "contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA.
6. The terms "furnish," "describe" or "indicate" shall mean turning over to the U.S. EPA either original or duplicate copies of the requested information in the possession, custody or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody or control, indicate where such information or documents may be obtained.
7. The term "identify" means, with respect to a natural person, to set forth his full name, present or last known business address, the name of that employer and a description of the job responsibilities of such person.
8. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
9. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee or recipient, and the substance or subject matter.
10. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant).
11. "Transaction" means every separate act, deal, instance or occurrence.
12. As used herein, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including (by way of illustration and not by way of limitation) any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone or other conversations (including meetings, agreements

and the like), diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, chart, graph, interoffice or intraoffice communication, photostat or other copy of documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack, any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

13. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Information Requests any information which might otherwise be construed to be outside their scope.

14. The term "property interest" means any interest in property, including, without limitation, any ownership interest, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary or a trust that owns or rents, or owned or rented property.

15. The term "asset" includes, without limitation, real estate, buildings or other improvements to real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interests in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds and other tangible and intangible property.

Requests

1. Identify all persons consulted in the preparation of the answers to these Information Requests.

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these Requests and provide copies of all such documents.

3. If you have reason to believe that there may be persons who are able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons, regardless of

whether they are presently employees of Respondent. The existence and identification of such persons shall not relieve Respondent of its duty to respond fully to this Information Request.

4. List the EPA Identification Numbers, if any, of Respondent.

5. State when you acquired your facilities in Albion, MI.

6. Identify your successor(s) in interest with respect to your facility in Albion, MI.

7. Describe in detail your relationship with Union Steel Products, Inc., and/or USP, Inc., with particular reference to the following:

(a) When did USP, Inc. acquire the Union Steel Products division from Respondent?

(b) Describe the acquisition transaction, i.e., was it accomplished by an exchange of cash for assets, or by a merger, or stock purchase? Provide copies of all documents evidencing the transaction.

(c) Provide lists of all shareholders of all outstanding stock in Respondent immediately preceding the acquisition transaction with USP, Inc.

(d) After the transaction, did USP, Inc. transact any business with former customers of Respondent? If so, identify those customers.

(e) What information, if any, was supplied to Respondent's customers regarding the transaction?

(f) Did any officers or directors of Respondent become officers or directors of USP, Inc. at the time of, or after the transaction? If so, please identify them by name, title at Respondent, and title at USP, Inc.

(g) Were any managers or other employees of Respondent retained by USP, Inc.? If so, please identify any managers by name, position at Respondent and position at USP, Inc., and any other employees by name.

(h) Did USP, Inc. continue to produce the same products after it acquired the Union Steel Products division from Respondent? If not, describe what changes were instituted.

(i) Did the Union Steel Products division of Respondent become a division of USP, Inc.?

(j) Does USP, Inc., or Union Steel Products, Inc., presently have any property interest in any of the assets or other property it acquired in the acquisition of the Union Steel Products division from Respondent? If not, identify when and to whom any of such assets were transferred.

(k) Did USP, Inc. assume any obligations, based in written contract or otherwise, through the acquisition transaction? If so, list those obligations.

8. Provide all information in Respondent's possession, custody or control respecting the waste disposal practices, and the practices for disposal of hazardous substances, of the Union Steel Products division of Eagle-Picher, or any successor entity. Please provide copies of any documents relating to these practices, and list the names of all employees and officers of Respondent who may have knowledge thereof.

9. Did you ever send waste materials to the Site? If so, state the time period when such shipments were made.

10. Provide copies of:

(a) any article of merger filed in connection with the acquisition of the Union Steel Products division of Respondent;

(b) the first annual report which references USP Inc.'s acquisition of the Union Steel Products division of Respondent; and

(c) any 10K report(s) filed by you that references USP's acquisition of the Union Steel Products division of Respondent, or any other event relating to that division of Respondent.